

BS030349

U.S. Application No. 10/720,800 Examiner SIKRI, Art Unit 2109  
Response to January 26, 2007 Office Action

### **REMARKS**

In response to the Office Action dated January 26, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited document to *Kato*.

Claims 1-16 are pending in this application.

The United States Patent and Trademark Office (the "Office") rejected claims 1-16 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Application Publication 2002/0112060 to *Kato*.

The Assignee shows, however, that the pending claims cannot be anticipated. The pending claims recite, or incorporate, features that are not disclosed by *Kato*. The Assignee thus respectfully requests removal of the § 102 (b) rejection.

### **Telephone Interview**

Examiner Sikri is thanked for the telephone interview of March 12<sup>th</sup>. Examiner Sikri agreed that the amended claims distinguish over the cited document to *Kato*. Examiner Sikri will update his search upon formal submission of this response.

### **Rejection of Claims 1-2**

The Office rejected claims 1 and 2 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Application Publication 2002/0112060 to *Kato*. A claim, however, is only anticipated when each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8<sup>th</sup> Edition) (hereinafter "M.P.E.P.").

BS030349

U.S. Application No. 10/720,800 Examiner SIKRI, Art Unit 2109  
Response to January 26, 2007 Office Action

Claims 1 and 2 cannot be anticipated by *Kato*. These claims recite, or incorporate, features that are not disclosed by *Kato*. Independent claim 1, for example, recites “*sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed.*” Support for such features may be found at least at paragraph [0029] of the as-filed application. Examiner Sikri is correct — *Kato* gathers “information about a path.” U.S. Patent Application Publication 2002/0112060 to *Kato* (Aug. 15, 2002) at Abstract and at paragraphs [0002], [0119] through [0123], [0139], [0170], [0177], and other paragraphs. Yet no where does *Kato* describe a reservation as recited in independent claim 1. Examiner Sikri cites claim 4 of *Kato* as disclosing this feature, but the Assignee must, very respectfully, disagree. Claim 4 of *Kato*, in its entirety, reads:

The network management system according to claim 1, wherein said path information acquiring unit feeds information collecting signal used to collect said path information being held by each of said nodes on said transfer route for said transfer signal, to said first edge node.

*Id.* at page 33, claim 4. No where does this claim 4 disclose or suggest anything remotely similar to a “reservation.” Moreover, *Kato*'s claim 4 fails to recite any of the features recited in independent claim 1. *Kato*, in fact, is entirely silent to “*sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed.*”

Moreover, claim 2 recites additional distinguishing features. *Kato* is again entirely silent to “*assessing a highest quality scenario and a lowest cost scenario, the highest quality scenario describing a combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation, and the lowest cost scenario describing another combination of segmentation, dispersion, and assemblage of segments that achieves a lowest cost, despite*

BS030349

U.S. Application No. 10/720,800 Examiner SIKRI, Art Unit 2109  
Response to January 26, 2007 Office Action

*degraded quality.*" Support for such features may be found at least at paragraph [0028] of the as-filed application.

*Kato*, then, cannot anticipate claims 1 and 2. *Kato* is wholly silent to the reservation features recited in independent claim 1. *Kato* is also silent to the quality and cost scenarios described in claim 2. Because *Kato* is silent to at least all these features, *Kato* cannot anticipate claims 1 and 2. Examiner Sikri is thus respectfully requested to remove the § 102 (b) rejection of claims 1 and 2.

### **Rejection of Claims 3-16**

The Office also rejected claims 3-16 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Application Publication 2002/0112060 to *Kato*. Again, however, claims 3-16 recite, or incorporate, features that are not disclosed by *Kato*. Independent claim 3, for example, recites "*assembling a second data stream, the second data stream comprising the result of the processing service and unprocessed segments*" (emphasis added). Support for such features may be found at least at paragraph [0035] of the as-filed application, and independent claims 15 and 16 recite similar features. No where does *Kato* disclose or suggest a data stream that is assembled from a result of a processing service and unprocessed segments.

Examiner Sikri is correct — *Kato* describes how a "resident active packet signal receiving unit" may restore a plurality of packets "back to one packet." *Id.* at [0224]. *Kato* also describes how a "circulating active packet signal receiving unit" may restore a plurality of packets "back to one packet." *Id.* at [0225]. *Kato* also describes how a plurality of packets may be "incorporated into a single packet" and then "divided ... into a plurality of packets" for transmission. *Id.* at [0244]. *Kato* also describes how a plurality of packets may be combined "so as to be a single packet for processing," and how the single packet may be divided "into a plurality of packets" and sent. *Id.* at [0356]. Yet no where does *Kato* describe "*assembling a second data stream, the second data stream comprising the result of the processing service and unprocessed segments*"

BS030349

U.S. Application No. 10/720,800 Examiner SIKRI, Art Unit 2109  
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(emphasis added). Because *Kato* is entirely silent to at least these features, *Kato* cannot anticipate independent claims 3, 15, and 16.

Dependent claims 4-9 recite additional distinguishing features. Dependent claim 4, for example, recites *"issuing an assertion to a subcontractor that indicates the subcontractor correctly performed the subsequent processing service according to the Service Level Agreement."* Support for such features may be found at least at paragraph [0038] of the as-filed application. Dependent claim 5 recites *"wherein the assertion is certified to reduce the incidence of fraudulent assertions."* Dependent claim 6 recites *"receiving an assertion from the subscriber that confirms the Service Level Agreement was satisfied."* Support for such features may be found at least at paragraph [0039] of the as-filed application. Dependent claim 7 recites *"receiving a volume of assertions from subscribers as indications of trust that each subscriber's Service Level Agreement will be satisfied."* Support for such features may be found at least at paragraph [0038] of the as-filed application. Dependent claim 8 recites *"when the service level agreement is satisfied, and the subscriber fails to provide the assertion, then further comprising denying communications services to the subscriber."* Support for such features may be found at least at paragraph [0039] of the as-filed application. Dependent claim 9 recites *"sending a reservation to reserve a routing path, the reservation instructing a device to only accept a segment destined for that routing path, the reservation specifying a window of time in which the segment must be received and processed."* Support for such features may be found at least at paragraph [0029] of the as-filed application. Because *Kato* is entirely silent to all these features, *Kato* cannot anticipate dependent claims 4-9.

Dependent claims 10-14 recite additional distinguishing features. Dependent claim 10, for example, recites *"ascertaining a highest quality scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation."* Dependent claim 11 recites *"ascertaining a lowest cost scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a lowest cost."* Dependent claim 12 recites *"ascertaining a most profitable scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest*

BS030349

U.S. Application No. 10/720,800 Examiner SIKRI, Art Unit 2109  
Response to January 26, 2007 Office Action

*profit.*" Support for all these features may be found at least at paragraphs [0022] and [0028] of the as-filed application.

*Kato*, then, cannot anticipate claims 3-16. *Kato* is silent to "assembling a second data stream, the second data stream comprising the result of the processing service and unprocessed segments," as similarly recited in independent claims 3, 15, and 16. Moreover, *Kato* is silent to the features recited in dependent claims 4-14. Because *Kato* is silent to at least all these features, *Kato* cannot anticipate claims 3-16. Examiner Sikri is thus respectfully requested to remove the § 102 (b) rejection of claims 3-16.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized flourish at the end.

Scott P. Zimmerman  
Attorney for the Assignee  
Reg. No. 41,390